

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

213

CRM-M-46896-2019
Date of decision: 24.01.2020

Dalwinder Singh @ Dalora

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gurdev Singh Kuka, Advocate
for the petitioner.

Mr. Vijesh Sharma, D.A.G. Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in the present 1st petition filed under Section 439 of the Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.222 dated 22.07.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Civil Line Sirsa, District Sirsa.

As per the prosecution version, the petitioner alongwith Shekhar and Harpreet @ Happy was apprehended by the police party headed by ASI Tarsem Singh on the basis of secret information while travelling in Ertiga Car bearing registration No. HR-36U-5392 and they were searched in the presence of Sh. Rajesh Chechi, Deputy Superintendent of Police, Sirsa and on search 80 gms heroin was recovered from the right pocket of pant worn by the petitioner while no recovery was made from Shekhar and Harpreet @ Happy.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. No independent witness was joined by the police party at the time of recovery. The recovery in the present case is not of commercial quantity. The mandatory provisions of the NDPS Act were not complied with. The petitioner is not involved in any other case under the NDPS Act. Trial is likely to take long time and the petitioner is ready to abide by the terms and conditions framed by this Court. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offence by keeping contraband in his conscious possession and the petitioner does not deserve the concession of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case, involvement of question as to whether the petitioner can be said to be in conscious possession of the contraband recovered, non applicability of Section 37 (1) (b) of the NDPS Act, the fact that he is not involved in any other case under the NDPS Act and that the trial is likely to take long time but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

In view of the above, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of bail bonds

to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. However, in case of commission of any offence under the provisions of the NDPS Act by the petitioner in future, his bail in the present case shall also be liable to be cancelled on filing of application in this regard.

24.01.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No